

## **REMARKS**

### **I. Claim Rejections Under 35 U.S.C. §103(a)**

#### ***Requirements for Prima Facie Obviousness***

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

M.P.E.P. §2143 sets out the three basic criteria that a patent examiner must satisfy to establish a *prima facie* case of obviousness:

1. some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
2. a reasonable expectation of success; and
3. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness by the examiner (assuming there are no objections or other grounds for rejection), an applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443 (Fed. Cir. 1992). Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that each of the three aforementioned basic criteria has been met.

#### ***Roeser in view of Brodsky***

The Examiner rejected claims 1, 3-6, 9-11 and 20 under 35 U.S.C. §103(a) as being unpatentable over Roeser (U.S. Patent No. 3,772,484) in view of Brodsky et al., "Brodsky" (U.S. Patent No. 2,740,872).

The Examiner argued that Roeser teaches a toggle switch apparatus, comprising: a toggle mechanism (referring to Figs. 3-4 of Roeser) associated with a plurality of basic switches (citing col. 1, lines 28-32 of Roeser) maintained within a switching area within a tubular housing 21 comprising a sealed metal tube (citing the abstract, Figs. 3-4, and col. 2, lines 5-10 of Roeser); an actuator 18 associated with at least one spring 51 to actuate the plurality of switches; the switches and the spring within housing 21; said tubular housing 21 hermetically sealed (citing col. 3, lines 48-52 of Roeser) for preventing contamination to the switching area and potential explosions thereof (citing col. 5, lines 10 to col. 6, line 3 of Roeser); and a plurality of pin contacts 30 and 31.

The Examiner admitted that Roeser does not teach a plurality of lead wires attached to the plurality of pin contacts. The Examiner argued, however, that Brodsky teaches a hermetically sealed toggle switch (i.e., referring to Fig. 6 of Brodsky) with a plurality of lead wires 23-25 connected to a plurality of pin contacts 20-22. The Examiner asserted that Brodsky discloses that the wires provide a flexible connection (i.e., citing col. 2, line 18 of Brodsky).

The Examiner argued that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the toggle switch device of Roeser with lead wires as taught by Brodsky, asserting that the lead wire connection of Brodsky would provide the toggle switch of Roeser with the ability for a flexible electrical connection.

The Applicant respectfully disagrees with this assessment and notes that the neither Brodsky or Roeser, alone or in combination with one another teach a header which is sealed into said tubular housing and a glass-to-metal seal which seals said header into said tubular housing. Due to the lack of a teaching for such claim

limitations, the Applicant submits that the rejection to claim 1 therefore fails under the first and third prongs of the aforementioned prima facie obviousness test. That is, with respect to the first prong, the Examiner has not provided some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings in order to achieve all of the claim limitations of Applicant's claim 1, including a header which is sealed into said tubular housing and a glass-to-metal seal which seals said header into said tubular housing.

With respect to the third prong, the Examiner has not provided evidence of the teaching or suggestion of all the claim limitations by the prior art references when combined, including the claim limitation of a header which is sealed into said tubular housing and a glass-to-metal seal which seals said header into said tubular housing.

Additionally, the Applicant notes that the Examiner indicated that claim 4 would be allowable if rewritten in independent form, including all of the limitations of the base claim (i.e., claim 1) and any intervening claims (i.e., claim 3). Thus, claim 1 as amended herein now includes all such limitations. The prior claims 3 and 4 were together generally directed toward a header which is sealed into said tubular housing and a glass-to-metal seal which seals said header into said tubular housing. Such features have been removed by amendment from claims 3 and 4 and are now included by amendment in claim 1. Thus, claim 1 as amended herein is allowable because it is a rewritten form of claim 4 including all of the limitations of the base claim and the intervening claim 3.

Regarding claim 3, the Examiner argued that Roeser discloses a header 48 within the housing. The Applicant notes that claim 3 has been amended as indicated herein so that claim 3 now indicates that the plurality of basic switches comprises at least six basic switches. The Applicant respectfully disagrees with this assessment. Claim 3 depends from claim 1, which is now allowable in light of the

amendments herein. Thus, the argument that Roeser discloses a header 48 within a housing is rendered moot. Applicant therefore respectfully requests withdrawal of the rejection to claim 3.

Regarding claim 5, the Examiner argued that Roeser discloses a metal cover 6. The Applicant respectfully disagrees with this assessment and notes that claim 5 depends from an allowable claim (i.e., amended claim 1). Therefore, the Applicant submits that the rejection to claim 5 has been traversed and should be withdrawn. The Applicant respectfully requests withdrawal of the rejection to claim 5.

Regarding claim 6, the Examiner argued that Roeser discloses a plurality of basic switches, including toggle and push button switches. The Applicant respectfully disagrees with this assessment and notes that claim 6 depends from an allowable claim (i.e., amended claim 1). Therefore, the Applicant submits that the rejection to claim 6 has been traversed and should be withdrawn. The Applicant respectfully requests withdrawal of the rejection to claim 6.

Regarding claims 9-11 and 13-14, the Examiner argued that the steps claimed are deemed obvious in view of the functions of the structure in the combination discussed above. The Applicant respectfully disagrees with this assessment and notes that claim 9 has been amended to incorporate the claim limitations of prior claim 12, including the intervening claim 11. Claim 9 now includes the step of sealing a header into said tubular housing utilizing a glass-to-metal seal. The Examiner indicated that claim 12 would be allowable if rewritten in independent form, including all of the limitations of the base claim (i.e., claim 9) and any intervening claims (i.e., claim 11). Thus, claim 9 as amended now incorporates all of the limitations of former claim 12. Based on the foregoing, the Applicant respectfully requests withdrawal of the rejection to claim 9-11. Because claim 9 is now allowable and claim 13-14 are dependent upon an allowable claim, the Applicants also respectfully request withdrawal of the rejection to claims 13-14.

Regarding claim 20, the Examiner argued that Roeser discloses the use of his switch in an aircraft (i.e., citing col. 5, line 30). The Applicant respectfully disagrees with this assessment and notes that amended claim 20 depends from amended claim 17, which has been amended to incorporate all of the features of previous claim 19, which has now been cancelled as indicated herein. Claim 19 previously was directed toward a header which is sealed into said tubular housing and a glass-to-metal seal which seals said header into said tubular housing, and wherein said cover comprises a metal cover. The claim limitations have now been incorporated into claim 17.

Applicant notes that Roeser does not teach, disclose or suggest a header which is sealed into said tubular housing and a glass-to-metal seal which seals said header into said tubular housing, and wherein said cover comprises a metal cover. The Applicant therefore submits that the rejection to claim 20 fails under the first, second and third prongs of the aforementioned prima facie obviousness test. Thus, the Applicant submits that the rejection to claim 20 has been traversed. The Applicant respectfully requests withdrawal of the rejection to claim 20.

Based on the foregoing the Applicant respectfully requests withdrawal to the rejection to claims 1, 3-6, 9-11 and 20 under 35 U.S.C. §103(a) as being unpatentable over Roeser in view of Brodsky.

## **II. Allowable Subject Matter**

The Examiner indicated that claims 4, 7-8, 12 and 15-16 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. The Applicant notes that claim 4 has now been written via the amendments indicated with respect to claim 1, which incorporate all of the claim limitations of prior claims 3-4. Similarly, claim 7 has been amended to incorporate

all of the features of claim 1 and claim 8, while claim 8 has been cancelled. Similarly amendments have been made to claims 15-16 and 19. The Applicant therefore submits that the rewritten claims indicated herein are now in an allowable form.

### **III. Conclusion**

In view of the foregoing discussion, the Applicant has responded to each and every rejection of the Official Action. The Applicant has clarified the structural distinctions of the present invention by amendments herein. The foregoing discussion and amendments do not present new issues for consideration and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Kermit Lopez", written over a horizontal line.

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